

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2008-15

JAMES LOUIS FAZIO  
3645 Belle Bonnie Brae Rd.  
Bonita, CA 91902

Certified Public Accountant Certificate No. 51182

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on 09-01-2008.

It is so ORDERED 08-01-2008.

  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General  
of the State of California

2 JAMES M. LEDAKIS

Supervising Deputy Attorney General

3 RON ESPINOZA, State Bar No. 176908

Deputy Attorney General

4 110 West "A" Street, Suite 1100

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5 P.O. Box 85266

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7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9  
10 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. AC-2008-15

14 JAMES LOUIS FAZIO

3645 Belle Bonnie Brae Rd.

15 Bonita, CA 91902

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Certified Public Accountant Certificate No. 51182

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Carol Sigmann (Complainant) is the Executive Officer of the California  
23 Board of Accountancy. She brought this action solely in her official capacity and is represented  
24 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Ron  
25 Espinoza, Deputy Attorney General.

26 2. James Louis Fazio (Respondent) is represented in this proceeding by  
27 attorney Travis P. Brennan of Proskauer Rose, LLP, whose address is 2049 Century Park East,  
28 Suite 3200, Los Angeles, CA 90067.

3. On or about October 7, 1988, the California Board of Accountancy issued Certified Public Accountant Certificate No. 51182 to James Louis Fazio. The certificate is currently inactive, and will expire on August 31, 2009, unless renewed.

## JURISDICTION

4. Accusation No. AC-2008-15 was filed before the California Board of Accountancy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 24, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2008-15 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2008-15. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2008-15.

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9. Respondent agrees that his Certified Public Accountant Certificate No. 51182 is subject to discipline, and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

**IT IS HEREBY ORDERED** that Certified Public Accountant Certificate No. 51182 issued to Respondent James Louis Fazio is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Actual Suspension.** Certified Public Accountant Certificate No. 51182 issued to Respondent James Louis Fazio is suspended for nine (9) months. During the period of suspension, the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions

1 Code, Division 3, Chapter 1, Section 5051.

2                   2.     **Active License Status.** Respondent shall at all times maintain an active  
3 license status with the Board, including during any period of suspension. If the license is expired  
4 or inactive at the time the Board's decision becomes effective, the license must be renewed and  
5 made active within one-hundred and twenty (120) days of the effective date of the decision. The  
6 period of suspension above will commence upon license activation.

7                   3.     **Obey All Laws.** Respondent shall obey all federal, California, other  
8 states' and local laws, including those rules relating to the practice of public accountancy in  
9 California.

10                  4.     **Submit Written Reports.** Respondent shall submit, within ten (10) days  
11 of completion of the quarter, written reports to the Board on a form obtained from the Board.  
12 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,  
13 and verification of actions as are required. These declarations shall contain statements relative to  
14 Respondent's compliance with all the terms and conditions of probation. Respondent shall  
15 immediately execute all release of information forms as may be required by the Board or its  
16 representatives.

17                  5.     **Personal Appearances.** Respondent shall, during the period of probation,  
18 appear in person at interviews/meetings as directed by the Board or its designated  
19 representatives, provided such notification is accomplished in a timely manner.

20                  6.     **Comply With Probation.** Respondent shall fully comply with the terms  
21 and conditions of the probation imposed by the Board and shall cooperate fully with  
22 representatives of the Board of Accountancy in its monitoring and investigation of the  
23 Respondent's compliance with probation terms and conditions.

24                  7.     **Practice Investigation.** Respondent shall be subject to, and shall permit,  
25 practice investigation of the Respondent's professional practice. Such a practice investigation  
26 shall be conducted by representatives of the Board, provided notification of such review is  
27 accomplished in a timely manner.

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1                   8.     **Comply With Citations.** Respondent shall comply with all final orders  
2 resulting from citations issued by the Board of Accountancy.

3                   9.     **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
4 Respondent should leave California to reside or practice outside this state, Respondent must  
5 notify the Board in writing of the dates of departure and return. Periods of non-California  
6 residency or practice outside the state shall not apply to reduction of the probationary period, or  
7 of any suspension. No obligation imposed herein, including requirements to file written reports,  
8 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise  
9 affected by such periods of out-of-state residency or practice except at the written direction of the  
10 Board.

11                  10.    **Cost Reimbursement.** Respondent shall reimburse the Board \$4,019.56  
12 for its investigation and prosecution costs. The payment shall be made within ninety (90) days of  
13 the date the Board's decision is final.

14                  11.    **Violation of Probation.** If Respondent violates probation in any respect,  
15 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation  
16 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke  
17 probation is filed against Respondent during probation, the Board shall have continuing  
18 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
19 is final.

20                  12.    **Completion of Probation.** Upon successful completion of probation,  
21 Respondent's license will be fully restored.

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FAX NO. 8186452081

P. 08

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Travis P. Brennan. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: JULY 14, 2008.

JAMES LOUIS FAZIO  
Respondent

I have read and fully discussed with Respondent James Louis Fazio the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

TRAVIS P. BRENNAN  
Attorney for Respondent

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JUL-07-2008 MON 01:27 PM DEPT. OF JUSTICE/ATTY GEN

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DATED: \_\_\_\_\_

\_\_\_\_\_  
JAMES LOUIS FAZIO  
Respondent

I have read and fully discussed with Respondent James Louis Fazio the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/14/08

  
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TRAVIS P. BRENNAN  
Attorney for Respondent

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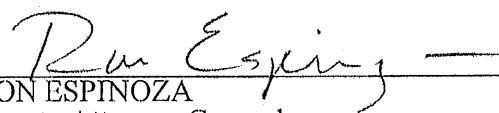
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 7-14-08

EDMUND G. BROWN JR., Attorney General  
of the State of California

JAMES M. LEDAKIS  
Supervising Deputy Attorney General

  
RON ESPINOZA  
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2008800585  
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**Exhibit A**

**Accusation No. AC-2008-15**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 RON ESPINOZA, State Bar No. 176908  
Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2100  
7 Facsimile: (619) 645-2061  
8 Attorneys for Complainant  
9

10 **BEFORE THE**  
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12 **STATE OF CALIFORNIA**

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Case No. AC-2008-15

14 JAMES LOUIS FAZIO  
3645 Belle Bonnie Brae Rd.  
15 Bonita, CA 91902

**A C C U S A T I O N**

16 Certified Public Accountant Certificate No. 51182

17 Respondent.  
18

19 Complainant alleges:

20 PARTIES

21 1. Carol Sigmann (Complainant) brings this Accusation solely in her official  
22 capacity as the Executive Officer of the California Board of Accountancy, Department of  
23 Consumer Affairs, State of California.

24 2. On or about October 7, 1988, the California Board of Accountancy issued  
25 Certified Public Accountant Certificate No. 51182 to James Louis Fazio (Respondent). The  
26 certificate is currently inactive, and will expire on August 31, 2009, unless renewed.

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1 (c) As used in this section, 'board' includes an individual who is authorized by  
2 any provision of this code to issue, suspend, or revoke a license, and 'license'  
includes 'certificate,' 'registration,' and 'permit.'

3 7. Section 5070.6 of the Code states:

4 Except as otherwise provided in this chapter, an expired permit may be renewed at  
5 any time within five years after its expiration upon the filing of an application for  
6 renewal on a form prescribed by the board, payment of all accrued and unpaid  
7 renewal fees and providing evidence satisfactory to the board of compliance as  
8 required by Section 5070.5. If the permit is renewed after its expiration, its holder,  
9 as a condition precedent to renewal, shall also pay the delinquency fee prescribed  
10 by this chapter. Renewal under this section shall be effective on the date on which  
the application is filed, on the date on which the accrued renewal fees are paid, or  
11 on the date on which the delinquency fee, if any, is paid, whichever last occurs. If  
so renewed, the permit shall continue in effect through the date provided in  
12 Section 5070.5 that next occurs after the effective date of the renewal, when it  
shall expire if it is not again renewed.

11 COST RECOVERY

12 8. Code section 5107, subdivision (a), states:

13 The executive officer of the board may request the administrative law judge, as  
14 part of the proposed decision in a disciplinary proceeding, to direct any holder of a  
15 permit or certificate found to have committed a violation or violations of this  
chapter to pay to the board all reasonable costs of investigation and prosecution of  
16 the case, including, but not limited to, attorneys' fees. The board shall not recover  
costs incurred at the administrative hearing.

17 FIRST CAUSE FOR DISCIPLINE

18 **(Suspension or Revocation of Right to Practice Before Governmental Body)**

19 9. Respondent James Fazio is subject to disciplinary action under Business  
20 and Professions Code section 5100, subdivision (h), in that on or about December 10, 2007, the  
21 Public Company Accounting Oversight Board (PCAOB), a governmental agency or body, issued  
22 final disciplinary sanctions against Respondent, barring him from being an associated person of a  
23 registered public accounting firm. The circumstances are as follows:

24 10. On or about December 10, 2007, PCAOB entered its Order Instituting  
25 Disciplinary Proceedings, Making Findings, and Imposing Sanctions against Respondent James  
26 Fazio. Respondent consented to entry of the Order without admitting or denying the findings  
27 therein, except as to jurisdiction, which he admitted. In its Order, PCAOB found that  
28 Respondent had violated certain PCAOB auditing standards in regard to auditing the financial

statements of Ligand Pharmaceuticals, Inc., for the year 2003, while Respondent was a partner in the San Diego, California office of the registered public accounting firm of Deloitte & Touche, LLP. In relation to the 2003 Ligand audit, Respondent was the engagement partner and led Deloitte & Touche's audit engagement team and authorized issuance of the audit report. In conducting said audit, PCAOB found, *inter alia*, that 1) Respondent did not adequately assess whether Ligand Pharmaceuticals had the ability to reasonably estimate future product returns; 2) Respondent did not adequately evaluate the reasonableness of Ligand Pharmaceuticals' estimates of future product returns; 3) Respondent did not adequately address the subsequent discovery of relevant facts existing at the date of the auditor's report; and 4) Respondent did not identify and appropriately address issues concerning Ligand Pharmaceuticals' exclusion of certain types of returns from its estimates of future returns.

11. The PCAOB Order disclosed that subsequent to the 2003 Ligand audit, Ligand Pharmaceuticals restated its financial statements for the year 2003, recognizing approximately \$59 million less in revenues from product sales than originally reported (a decrease of approximately 52 percent), and reporting a net loss more than 2.5 times the net loss originally recognized in that year.

12. As a result of its findings, PCAOB ordered that Respondent James Fazio was barred from being an associated person of a registered public accounting firm for at least two years from the date of its Order.

## SECOND CAUSE FOR DISCIPLINE

(Imposition of Discipline by PCAOB)

13. Respondent James Fazio is subject to disciplinary action under Business and Professions Code section 5100, subdivision (1), in that on or about December 10, 2007, PCAOB made findings and imposed final disciplinary sanctions against Respondent, as set forth in paragraphs 10 through 12 above, which are hereby incorporated by reference.

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1 PRAYER

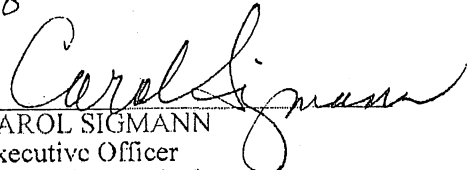
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

4 14. Revoking or suspending or otherwise imposing discipline upon Certified  
5 Public Accountant Certificate No. 51182, issued to James Louis Fazio;

6 15. Ordering James Louis Fazio to pay the California Board of Accountancy  
7 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
8 Professions Code section 5107;

9 16. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: June 23, 2008

12   
13 CAROL SIGMANN  
14 Executive Officer  
15 California Board of Accountancy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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